

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cynthia-Lee Williams	Team: Team # 2	CCRB Case #: 200716900	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 11/20/2007 3:30 PM	Location of Incident: § 87(2)(b)	Precinct: 62	18 Mo. SOL 5/20/2009	EO SOL 5/20/2009	
Date/Time CV Reported Wed, 11/21/2007 12:11 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 11/21/2007 10:06 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM John Hagan	01470	933825	062 PCT
2. SGT Christop Zaleski	01803	923399	062 PCT
3. An Officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Frank Kolanovic	14340	924035	062 PCT
2. POM Horacio Maldonado	22375	930737	062 PCT
3. Officers			

Officer(s)	Allegation	Investigator Recommendation
A.SGT Christop Zaleski	Abuse: Sgt. Christopher Zaleski entered and searched § 87(2)(b)	§ 87(2)(b)
B.POM John Hagan	Discourtesy: PO John Hagan spoke obscenely and/or rudely to § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
C. An Officer	Discourtesy: An Officer spoke obscenely and/or rudely to § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
D.POM John Hagan	Force: PO John Hagan used physical force against § 87(2)(b)	§ 87(2)(b)
E. An Officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
F. An Officer	Abuse: An officer threatened to arrest § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
G.POM John Hagan	Abuse: PO John Hagan threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
H.POM John Hagan	Abuse: PO John Hagan threatened to notify Administration for Children's Services.	§ 87(2)(b)

Synopsis

On November 29, 2007, at approximately 3:30p.m., several officers entered and searched § 87(2)(b)'s apartment without a search warrant (**Allegation A**). The officers said that they received a radio call stating that there were firearms in the home. At the time, § 87(2)(b) their child, and § 87(2)(b) were in the apartment. When the officers arrived to the scene, § 87(2)(b) and § 87(2)(b) were engaged in a verbal dispute. During this time, Officer John Hagan and another officer (unidentified) used discourteous language towards § 87(2)(b) and § 87(2)(b) (**Allegation B and Allegation C**). Officer Hagan then pushed § 87(2)(b) (**Allegation D**) and he threatened to use physical force towards § 87(2)(b) (**Allegation G**). Another officer also threatened to use physical force towards § 87(2)(b) (**Allegation E**). In addition, an officer threatened to arrest § 87(2)(b) and § 87(2)(b) (**Allegation F**), as well as contact Administration for Children Services (**Allegation H**) to remove their son from the home.

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) (Victim)
On November 21, 2007, § 87(2)(b) filed a complaint with the CCRB via the call processing system, on behalf of § 87(2)(b) and § 87(2)(b) (Encl. 4-4a). § 87(2)(b) refused to participate in the investigation process. § 87(2)(b) added that she did not witness the incident, and explained that she is a family friend of the § 87(2)(b) family.

On November 29, 2007, § 87(2)(b) and § 87(2)(b)-old white male, was interviewed by the CCRB at McDonalds, at 430 86th Street, in Brooklyn (Encl. 5-5d). § 87(2)(b) provided a follow-up statement on January 3, 3008 (Encl. 6). Both statements are summarized below.

§ 87(2)(b) stated that on November 20, 2007, at approximately 3:30p.m., he was at § 87(2)(b)'s apartment (his § 87(2)(b) old girlfriend), located at § 87(2)(b) in Brooklyn. The two share a child in common. § 87(2)(b) described the apartment complex. The front door of the complex is unlocked. Once entering the complex, there is a flight of stairs leading up to the second floor. On the second floor, there are several apartments, one of them belonging to § 87(2)(b). Once passing through § 87(2)(b)'s front door, there is a foyer that leads into the living room. Two bedrooms, which are adjacent to each other, stem from the living room.

On the day of incident, § 87(2)(b) had an argument with § 87(2)(b)'s cousin, § 87(2)(b) § 87(2)(b) old), for approximately 10 minutes. Only § 87(2)(b) their child, and § 87(2)(b) were present in the apartment at the time. An unidentified individual called officers to investigate the circumstance. Towards the end of the dispute, approximately nine plain-clothed officers stood outside of § 87(2)(b)'s front door; an officer knocked on the door and § 87(2)(b) opened it. An officer told § 87(2)(b) that they were responding to a call which stated that firearms were located inside of § 87(2)(b)'s home.

§ 87(2)(b) told the officers that they could not enter the premises. An officer then gently moved § 87(2)(b) aside to allow the officers into the residence. § 87(2)(b) told the officers that they did not have guns in their home. PO2 replied, “No, we have a court order for a fucking gun in this fucking house. You sit the fuck down.” At another point during the CCRB interview, § 87(2)(b) quoted PO2, saying, “We had a call for guns, and we are not leaving here until we find this gun.” At another point during the CCRB interview, § 87(2)(b) said that PO2 told him, “We got a call that there was a fucking gun in this house.” Because § 87(2)(b) was uncooperative with the participating in a photo array, PO2 was unable to be identified. § 87(2)(b) did provide a description of PO2. PO2 was described as a male with olive complexion, approximately 175 pounds, with a short crew cut hair style.

Once entering the home, most of the officers began searching all throughout the home, while two uniformed officers spoke with § 87(2)(b) and § 87(2)(b). The officers then rummaged through all the draws and closets located inside the two rooms. The officers also searched the kitchen, more specifically on the top of the refrigerator, as well as the bathroom. In the bathroom, the § 87(2)(b)s have a toilette stand that contains several draws; the officers opened the draws and searched through them. All the draws located in the bathroom and the two bedrooms were left in disarray. § 87(2)(b) stated that the officers searched the apartment for approximately 20 minutes. At some point during this time, an officer instructed § 87(2)(b) to go into one of the bedrooms.

Following the search, PO1 told § 87(2)(b) “You sit the fuck down,” and pushed § 87(2)(b) onto the couch. PO1, Officer John Hagan, was identified by § 87(2)(b) when he observed his badge. Officer Hagan was described by § 87(2)(b) as being a young blond-haired white male, approximately 5’9” at 200 pounds (muscular). Officer Hagan, who was standing approximately two feet away from § 87(2)(b), made a diamond shape symbol using both hands, placed his hands on § 87(2)(b)s chest and pushed with force; § 87(2)(b) landed on the couch. § 87(2)(b) who has severe asthma, “blacked out” for a few seconds. An officer then said to § 87(2)(b) “I will beat the shit out of you” if § 87(2)(b) continued speaking. PO2 then told § 87(2)(b) “If you don’t shut the fuck up, you will be locked up immediately.” At another point during the CCRB interview, § 87(2)(b) quoted PO2 saying, “If you don’t shut up, we are going to lock you up. Do you want to go out in handcuffs?” Officer Hagan then threatened to slap § 87(2)(b) in the face if she did not “Shut up.” Officer Hagan said, “If you don’t shut the fuck up, we are going to slap the shit out of you.” § 87(2)(b) replied to Officer Hagan, “What? You’re going to slap the shit out of me and you’re an authority?” § 87(2)(b)s son began crying. Officer Hagan then stated, “I’ll have ACS here so fucking fast.” At another point during the CCRB interview, § 87(2)(b) quoted Officer Hagan telling § 87(2)(b) the following: “If you don’t shut the fuck up, I’ll have ACS here so fast.” § 87(2)(b)s son continued crying as the officers would not allow § 87(2)(b) to tend to her child.

Prior to leaving § 87(2)(b)s home, an officer requested both § 87(2)(b)s and § 87(2)(b)s identification cards. § 87(2)(b) did not possess his ID card at the time; however, § 87(2)(b) was able to provide her information. An officer wrote down § 87(2)(b)s and § 87(2)(b)s names on a pink sheet of paper. The officers then left the residence.

§ 87(2)(b) was able to vaguely describe another officer at the scene, stating that he was a dark skinned male, but not of African-American decent. As for the remaining officers at the scene, he was unable to provide any detailed descriptions regarding their appearance. He added that there were no female or African-American officers in the group; however, there were a few Hispanic officers (approximately 2).

§ 87(2)(b) (Victim)

On November 29, 2007, at approximately 3:30p.m., § 87(2)(b) a § 87(2)(b)-old white female, employed as § 87(2)(b), was interviewed at McDonalds, located at 430 86th Street, in Brooklyn (Encl. 7-7d). § 87(2)(b) stated that on the day of incident, she was arguing

with her boyfriend, § 87(2)(b) (20 years-old), in the living room of her apartment, located at § 87(2)(b) in Brooklyn. § 87(2)(b) s § 87(2)(b) old cousin, § 87(2)(b) observed the confrontation.

An unidentified individual called 911. § 87(2)(b) heard a knock on the door and while she was walking in the foyer to open the door, six to ten officers turned the door knob and entered the apartment; § 87(2)(b) noted that her front door was unlocked, as well as the front door of the entire apartment complex. PO2 exclaimed, "We are here for a gun charge!" § 87(2)(b) then said, "No one in this house called the police." The officers walked through the apartment, into the living room, and were met by § 87(2)(b) and § 87(2)(b) PO2 was not able to be identified because § 87(2)(b) and § 87(2)(b) were uncooperative with the photo array. § 87(2)(b) described PO2 as a blond haired white male, in his 20's, who weighed approximately 170 pounds and was approximately 5'8."

The officers told § 87(2)(b) and § 87(2)(b) that they received a call stating that there were firearms in the home. The officers immediately had § 87(2)(b) and § 87(2)(b) sit on the living room couch next to one another. While § 87(2)(b) was seated, he told the officers, who stood around him, that there were no firearms in the apartment. At this particular moment, four uniformed officers began searching the house. Two officers walked inside § 87(2)(b) s bed room, as two other officers walked inside her grandmother's bed room. The remaining officers stayed in the living room and spoke with the three youths. The officers who entered the two bedrooms completed a visual search, thus, they did not enter any of the draws or closets in the bedroom. § 87(2)(b) observed the officers complete a visual search of her closet, (which was opened); the closet is located towards the entrance of the room. § 87(2)(b) deemed that the officers were searching for additional people who were maybe hiding in the home. The officers remained in the two bedrooms for approximately 3 minutes and did not seize anything from the house. These four officers then left the bedrooms and entered the living room. At that moment, § 87(2)(b) got up from the couch. PO1 told § 87(2)(b) "You're annoying me. Shut the fuck up!" PO1 continually stated, "I'm not getting shot for no one." PO1, Officer John Hagan, was identified by § 87(2)(b) when he looked at his badge. Officer Hagan was described as a 5'8", 200 pounds, male, who had an olive complexion and spiky brown hair. Officer Hagan was dressed in plain-cloths. Officer Hagan then pushed § 87(2)(b) using excessive force, placing both of his hands on § 87(2)(b) s chest. § 87(2)(b) fell backwards, landing on the couch. He did not sustain any injuries. At the time, § 87(2)(b) and § 87(2)(b) sat near § 87(2)(b) they were all surrounded by officers, who stood several feet away from them. § 87(2)(b) remarked that all the officers heard the profanity being used, and observed § 87(2)(b) being pushed by an officer, however, they did not interject or make any comments at the time.

However, § 87(2)(b) then said to PO1, "This is how you handle...you're an authority." Officer Hagan responded, "Shut the fuck up before I punch you in your face!" The other officers, who were in the same position as noted above, remained quiet. § 87(2)(b) s one year old child began crying. Officer Hagan then told § 87(2)(b) and § 87(2)(b) that "We are going to call ACS...if you and your boyfriend don't shut the fuck up, we're going to take your son away!" PO2 threatened to arrest both § 87(2)(b) and § 87(2)(b) § 87(2)(b) and § 87(2)(b) did not respond to PO2's comment.

The officers then requested both § 87(2)(b) s and § 87(2)(b) s identification cards. § 87(2)(b) provided her ID however, § 87(2)(b) did not possess his identification card at the moment and provided his name. An officer wrote down their information in a pink notebook; then the officers left the scene.

§ 87(2)(b) said that she was visually upset during the incident, however, she did not use any profanity towards the officers. She also remarked that § 87(2)(b) also did not use any profanity towards the officers, and only addressed them once.

Results of the Investigation

§ 87(2)(b) (Witness)

Beginning on January 03, 2008, the undersigned investigator made several efforts to contact § 87(2)(b). Phone calls were placed to § 87(2)(b)'s phone on the following dates: January 03, 2008, January 29, 2008, January 30, 2008, February 11, 2008, February 19, 2008, and February 20, 2008. § 87(2)(b) was not available on these dates; the undersigned investigator left messages on his answering machine and at other times, the investigator left a message with § 87(2)(b)'s housemate. § 87(2)(b) did not respond to the undersigned investigator's phone calls. On February 11, 2008 and February 19, 2008, two letters were sent to § 87(2)(b)'s home; as of this date, § 87(2)(b) has not responded to these letters, nor were the letters returned to sender. On March 18, 2008, the undersigned investigator spoke with § 87(2)(b) who stated that she would bring § 87(2)(b) to the CCRB for an interview. On March 28, 2008, § 87(2)(b) and § 87(2)(b) were not present at the CCRB. On March 31, 2008, a letter was sent to § 87(2)(b) and a last phone call was placed to his residence on April 10, 2008, § 87(2)(b) was not available; a message was left with his housemate. As of this date, § 87(2)(b) has not responded to any of the undersigned investigator contact efforts, nor was § 87(2)(b)'s letter returned to sender. Based on the fact that § 87(2)(b) did not respond to the undersigned investigator's letters and phone calls, § 87(2)(b) is deemed uncooperative in regards to this complaint.

Photo Array

Beginning on February 20, 2008, several phone calls were made to § 87(2)(b) and § 87(2)(b) in efforts to bring them in for a photo array. § 87(2)(b) and § 87(2)(b) were contacted by telephone on the following dates: February 22, 2008 (2 times), February 26, 2008 (2 times), February 29, 2008, March 14, 2008, and March 18, 2008. § 87(2)(b) was not available on these dates, thus the undersigned investigator left messages with his housemate, and on some dates, voices messages were left on his answering machine. On February 20, 2008, a photo array appointment letter was mailed to § 87(2)(b) as of this date, § 87(2)(b) has not responded to the letter, nor was the letter returned to sender. § 87(2)(b) did not also respond to any of the phone calls placed by the undersigned investigator. As of this date, § 87(2)(b) has made no efforts in contacting the CCRB. § 87(2)(b) was also unavailable on all dates listed above, with the exception of March 18, 2008, when she scheduled a photo array for March 28, 2008. On March 28, 2008, § 87(2)(b) was not present for her appointment and a missed appointment letter was mailed to her. § 87(2)(b) did not respond to the letter, nor was the letter returned to sender. Two phone calls were placed to § 87(2)(b)'s residence on March 31, 2008, and April 10, 2008; § 87(2)(b) was unavailable and messages were left on her answering machine. As of this day, § 87(2)(b) has made no efforts to contact the CCRB.

Field Work

On November 29, 2007, the undersigned investigator conducted a field visit with Investigator Snodgrass and Investigator DeRoberts to the McDonalds, located at 430 86th Street, in Brooklyn, in order to interview the victims in this complaint. Investigator Williams interviewed § 87(2)(b) and Investigator Snodgrass interviewed § 87(2)(b).

Identification of Officers Interviewed

Officer Hagan was identified by § 87(2)(b) when he observed the subject officer's shield during the incident. During his CCRB interview, Officer Hagan stated that he was working with the following officers: Sergeant Christopher Zaleski, Officer Frank Kolanovic, and Officer Horacio Maldonado.

Sergeant Christopher Zaleski (Subject Officer)

Sergeant Zaleski, of the 62nd Precinct, was interviewed at the CCRB on May 12, 2008 (Encl. 9-9a). Officer Zaleski worked in uniform from 9:03a.m. to 6:00p.m. on November 20, 2007. Sergeant Zaleski was assigned BAT (the Burglary Apprehension Team) team supervisor, working with Officer Frank Kolanovic, Officer Horacio Maldonado, and Officer John Hagan, in an unmarked vehicle (a black impala with tinted windows), RMP 8172. Sergeant Zaleski does not recall which officer was the operator. Sergeant Zaleski did not have any entries in his memo book regarding the incident (Encl.8).

Sergeant Zaleski stated that on November 20, 2007, at approximately 9:20a.m., he, Officer Maldonado, Officer Kolanovic, and Officer Hagan received a radio call, a 1034, an assault in progress, with a possible firearm. The incident location is in an apartment building located at § 87(2)(b) in Brooklyn. The apartment building is a two story complex that contains two apartments on each floor. Sergeant Zaleski added that two additional officers responded to the scene. He noted that the officers were from his command, however, he did not recall when they came, (before of after his arrival). Sergeant Zaleski could not identify the officers, nor could he not provide any descriptions based on their physical appearance (i.e. age, race, gender).

The officers approached the apartment complex, and opened the front door, which was unlocked. The officers then went upstairs, to the second floor, and stood in-front of apartment § 87(2)(b). The officers knocked on the door, though Sergeant Zaleski soon acknowledged that the door was slightly ajar. The officers pushed the door open and entered the apartment. Sergeant Zaleski entered the apartment based on the possibility that someone in the home may be in the possession of a firearm.

They soon passed through the hallway, and observed § 87(2)(b) and § 87(2)(b) and a child in the living room. § 87(2)(b) and § 87(2)(b) were in the midst of a verbal argument. Sergeant Zaleski asked § 87(2)(b) and § 87(2)(b) if there where any weapons in the home and the three replied “no.” By visually examining § 87(2)(b) and § 87(2)(b) Sergeant Zaleski soon realized that they were not in possession of any firearms.

Sergeant Zaleski then pulled § 87(2)(b) aside, and walked with him to one of the bedrooms. Sergeant Zaleski described that the two bedrooms stem from the living room. In the room, Sergeant Zaleski asked § 87(2)(b) about the incident. § 87(2)(b) stated that § 87(2)(b) and § 87(2)(b) who have a child in common, were engaged in an argument, however, he did not know what the argument regarded. Sergeant Zaleski explained that at the time he spoke with § 87(2)(b) the remaining officers at the scene were attempting to calm § 87(2)(b) and § 87(2)(b) who were still in the living room.

At the time, § 87(2)(b) and § 87(2)(b) where seated as the officers stood around them. Sergeant Zaleski did not know if the other officers asked them to sit or if they were already seated on the couch. Sergeant Zaleski claimed that at no point during the incident did he search any of the two bedrooms. Sergeant Zaleski stated that he only entered one bedroom to speak to § 87(2)(b). Sergeant Zaleski is uncertain if other officers at the scene entered and/or searched the two bedrooms.

One of the officers asked § 87(2)(b) and § 87(2)(b) for their identifications and subsequently filled out a Domestic Incident Report (DIR) regarding the incident. Sergeant Zaleski estimated that he remained in the apartment for approximately 5 to 10 minutes.

Sergeant Zaleski added that he only had one encounter with § 87(2)(b) prior to this incident.

Sergeant Zaleski said that at no time during the incident did he see any officer push § 87(2)(b) onto the couch. He added that he did not commit this act either. Sergeant Zaleski also stated that he did not see § 87(2)(b) black out or appear disorientated. Sergeant Zaleski said that none of the officers at

the scene threatened to use physical force towards § 87(2)(b) and § 87(2)(b) nor did any officer threaten to contact ACS. Sergeant Zaleski stated that neither he nor any other officer at the scene used profanity towards § 87(2)(b) and § 87(2)(b).

Officer John Hagan (Subject Officer)

Officer John Hagan, of the 62nd Precinct, was interviewed at the CCRB on May 7, 2008 (Encl. 13-13a). Officer Hagan worked in uniform from 9:30a.m. to 6:05p.m. on November 20, 2007. Officer Hagan was assigned to BAT (the Burglary Apprehension Team), working with Officer Frank Kolanovic, Officer Horacio Maldonado, and Sergeant Christopher Zaleski, dressed in uniform, driving in an unmarked vehicle (a black impala with tinted windows), RMP 8172. Officer Hagan did not recall which officer was the operator. Officer Hagan did not have any entries in his memo book regarding the incident (Encl. 12-12a).

On November 20, 2007, while out on patrol, Officer Hagan and his partners received a 911 call, stating that there was a dispute involving a firearm, at § 87(2)(b) in Brooklyn. Officer Hagan noted that he is familiar with the area, and remarked that it is a high drug prone location. When they arrived to the scene, Officer Hagan saw four uniformed officers present outside the complex. Officer Hagan could not provide the identities of these officers, nor could he provide a description (race, gender, etc). However, he did recall that the officers were from his command.

The eight officers entered the front door of the apartment complex, which was unlocked, and walked upstairs together to the second floor, Apt. § 87(2)(b). An officer knocked on the front door; § 87(2)(b) answered the door and granted the officers access to the apartment. Officer Hagan did not recall if he had any interaction with § 87(2)(b). All the officers entered the apartment, passed the hallway, and walked to the living room/kitchen area where the civilians were located. They entered the apartment to address the radio call and to secure the area.

Officer Hagan was soon confronted by two individuals, § 87(2)(b) and § 87(2)(b) who were in the midst of a verbal argument. During this time, § 87(2)(b) began punching the walls. Officer Hagan did not recall the circumstance surrounding this altercation.

§ 87(2)(b) then began screaming at the officers when they attempted to calm him down; Officer Hagan did not recall if § 87(2)(b) used any profanity towards them. Some of the officers told § 87(2)(b) to sit down and he complied. Officer Hagan is uncertain if the officers also ordered other individuals in the room to also sit down.

Officer Hagan explained that he did not have much interaction with § 87(2)(b) and § 87(2)(b) though said that the other officers at the scene made efforts to speak with them regarding the incident. Officer Hagan explained that § 87(2)(b) and § 87(2)(b) were uncooperative and did not desire assistance from the police; the officers eventually decided to leave the scene, though prior to their departure, they completed a Domestic Incident Report. Officer Hagan explained that every time that there is a domestic incident, a DIR must be completed. The officers then left the scene and resumed patrol. Officer Hagan estimated that he was at this location for approximately several minutes.

Officer Hagan stated that at no point during the incident, did he or any officer at the scene place their hands on § 87(2)(b)'s chest. He added that § 87(2)(b) did not complain of being injured and that he did not see § 87(2)(b) black-out or have trouble breathing. Officer Hagan said that none of the officers had physical contact with § 87(2)(b). In addition, Officer Hagan explained that he did not see any officers go inside the two bedrooms in the apartment, or search through any items in the room. Officer Hagan claimed that he did not carry out these procedures. Officer Hagan explained that his

main focus was directed towards § 87(2)(b) and § 87(2)(b) not to the additional officers at the scene.

Officer Hagan said that neither he nor any other officer at the scene used profanity towards § 87(2)(b) and § 87(2)(b). Officer Hagan did not hear any officer threaten to use force towards § 87(2)(b) and § 87(2)(b) or threaten to arrest them.

Officer Hagan did not remember seeing any children in the apartment, and did not recall any officer threaten to contact ACS. Officer Hagan noted that he did not make this statement.

Officer Horacio Maldonado (Witness Officer)

Officer Horacio Maldonado, of the 62nd Precinct, was interviewed at the CCRB on April 7, 2008 (Encl. 11-11b). Officer Maldonado worked in uniform from 9:00a.m. to 6:00p.m. on November 20, 2007. Officer Maldonado was assigned to BAT (the Burglary Apprehension Team), working with Officer Frank Kolanovic, assigned to an unmarked vehicle (a black impala with tinted windows), RMP 1872. Officer Maldonado also added that he was working with Sergeant Christopher Zaleski and Officer John Hagan. Officer Maldonado did not have any entries in his memo book regarding this incident (Encl. 10).

Officer Maldonado stated that on November 20, 2007, at approximately 9:20a.m., he and Officer Kolanovic received a radio call, which detailed that a man was in possession of a gun, located at § 87(2)(b) in Brooklyn. Officer Maldonado noted that this apartment complex is located in a residential area that has a high volume of noise complaints.

Officer Maldonado explained that his team was backing up another police unit. When the four officers arrived to the scene, Officer Maldonado observed one marked vehicle parked outside the apartment building complex. This vehicle was occupied by two uniformed officers; Officer Maldonado could not provide the officers' names and does not recall their appearance (race, age, gender). He only remembered that they were from his command.

All six officers approached the door belonging to the apartment complex; this door was not locked. Officer Maldonado explained that the apartment complex has a total of four apartments, two on each floor. The officers walked up the stairs to the second floor of the apartment complex; they stood in front of apartment § 87(2)(b) and heard screaming from both a male and female.

Officer Maldonado soon observed that the front door of apartment § 87(2)(b) was ajar; the officers slightly pushed the door open and observed one male individual, later identified as § 87(2)(b) standing in the center of the hallway, the first "room" closest to the door. Officer Maldonado ordered § 87(2)(b) to move out of the hallway, and he complied. The four officers then entered the apartment complex. Officer Maldonado explained that he wanted to enter the complex because he heard a commotion; in addition, the firearm was allegedly located inside the residence. Once the officers passed the hallway, they reached the living room and dining room area. Officer Maldonado then yelled, "Police!" In the hallway Officer Maldonado observed § 87(2)(b) and § 87(2)(b) yelling, arguing, and using explicit language. Officer Maldonado also added that a young child was in the home. As they argued, Officer Maldonado soon acknowledged that § 87(2)(b) and § 87(2)(b) were not in the possession of any firearms.

Officer Maldonado then decided to enter two bed rooms, which stemmed from the living-room; both bedrooms were located on opposite sides of the living room. Officer Maldonado stated that he carried out this procedure, to make certain that other individuals, who might be armed, were not located in the home. Officer Maldonado noted that both bedroom doors were wide open. Officer Maldonado walked into both bedrooms to check for any individuals who might be armed; Officer Maldonado said that he conducted a visual search of both rooms, and noted that he did not enter the rooms entirely. At that

time, the remaining officers who were in the living room, told § 87(2)(b) and § 87(2)(b) to sit down. He said that he did not look in any closets. Officer Maldonado explained that the purpose of the search was to make certain that when he addressed § 87(2)(b) and § 87(2)(b) no other individuals would surprise them, and approach them in a threatening manner, and thus Officer Maldonado wanted to be reassured that all the individuals in the house were in the living room. Officer Maldonado did not believe that other officers also looked in the rooms; he only observed them speaking with § 87(2)(b) and § 87(2)(b). He heard § 87(2)(b) state, "I didn't call [911], I'm just arguing with my girl." When Officer Maldonado turned around to exit one of the bedrooms, he observed the two additional officers in the hall way area speaking to the complainants. He did not hear or see any officers' request § 87(2)(b)'s and § 87(2)(b)'s license. Officer Maldonado soon acknowledged that the rooms were empty and headed towards the living room.

At that point, Officer Maldonado said that he felt more comfortable and began addressing § 87(2)(b). Officer Maldonado attempted to calm § 87(2)(b). § 87(2)(b) began screaming at him, telling him to leave the room. Officer Maldonado explained to § 87(2)(b) and § 87(2)(b) that they would leave once they completed a Domestic Incident Report. Subsequent to one of the officers filling out the complaint, all the officers left the apartment.

Officer Maldonado estimated that he was in the apartment for approximately 10 minutes.

Officer Maldonado stated that he did not push § 87(2)(b) nor did any other officers use physical force towards § 87(2)(b). Officer Maldonado also said that § 87(2)(b) did not black out at any point, nor did § 87(2)(b) complain of having breathing difficulties.

Officer Maldonado stated that none of the officers at the scene, including himself used profanity towards § 87(2)(b) and § 87(2)(b) nor any of them threaten to arrest the three civilians. Officer Maldonado also stated that none of the officers threatened to use physical force towards § 87(2)(b) and § 87(2)(b) and no officer threatened to contact ACS.

Officer Frank Kolanovic (Witness Officer)

Officer Frank Kolanovic, of the 62nd Precinct, was interviewed at the CCRB on March 28, 2008 (Encl. 15-15b). Officer Kolanovic worked in uniform from 9:30a.m. to 6:05p.m. on November 20, 2007. Officer Kolanovic was assigned to BAT (Burglary Apprehension Team), working with, Officer Horacio Maldonado, Sergeant Christopher Zaleski, and Officer John Hagan, in an unmarked vehicle (a black impala with tinted windows), RMP 8172. Officer Kolanovic did not recall which officer was the operator. Officer Kolanovic did not have any entries in his memo book regarding this incident (Encl. 14-14a).

Officer Kolanovic stated that on November 20, 2008, at approximately 9:20a.m., he and Officer Maldonado, Officer Hagan, and Sergeant Zaleski responded to a radio call relaying a message that there was a dispute, involving a firearm, located at § 87(2)(b) in Brooklyn, apartment § 87(2)(b). Officer Kolanovic explained that the incident location, a primarily residential area, is known for heavy drug activity. He added that the incident occurred in an apartment building complex, which holds 2 apartments on each floor, totaling four apartments. Officer Kolanovic, Officer Maldonado, Officer Hagan, and Sergeant Zaleski all approached the apartment complex, and walked through the front door which was unlocked. The officers then walked upstairs to the second floor and stood in-front of apartment § 87(2)(b).

One of the officers knocked on the door, and § 87(2)(b) opened the door. § 87(2)(b) informed the officers that § 87(2)(b) and § 87(2)(b) were in the midst of an argument, however, he was unaware of the topic discussed. The officers told § 87(2)(b) that they wanted to enter the apartment, and § 87(2)(b) granted them access. Officer Kolanovic explained that the officers

entered the apartment in order to investigate the concerns surrounding the radio call (an individual armed with a weapon).

The officers then entered the home. Officer Kolanovic described the layout. Once entering the home, there is a hallway. The hallway is followed by a kitchen/living-room combination. Officer Kolanovic observed § 87(2)(b) and § 87(2)(b) yelling at each other, as § 87(2)(b) was punching the walls. Officer Kolanovic did not recall if a child was present in the apartment at this time.

Officer Kolanovic began addressing § 87(2)(b) asking that he provide information so that a domestic incident report can be completed. § 87(2)(b) responded to the request by raising his voice at Officer Kolanovic and stating that he did not want to speak with the authorities. Officer Kolanovic requested § 87(2)(b)s and § 87(2)(b)s name several times, and eventually they complied. Officer Kolanovic then filled out a DIR and all the officers then left the scene. Overall Officer Kolanovic and the other officers remained at the scene for approximately 5 minutes. Officer Kolanovic said that two other officers from another unit were present at the scene, however, he could not recall any details regarding their identities (race, gender, age). He is uncertain as to when these officers arrived to the scene, and what their role in the incident was.

Officer Kolanovic did not recall if any other officer at the scene spoke directly with § 87(2)(b) and § 87(2)(b)

Officer Kolanovic also noted that none of the officers at the scene searched any of the rooms in the house, nor did he recall seeing any other officers walk into the rooms. He remarked that all the officers were in the main area, the living room.

Officer Kolanovic also said that none of the officers at the scene, including himself, pushed § 87(2)(b) onto the couch. Officer Kolanovic added that he did not see § 87(2)(b) black out or complain of having breathing difficulties.

Officer Kolanovic said that he did not have a previous encounter with § 87(2)(b) and § 87(2)(b) however, he is acquainted with § 87(2)(b) and his family.

Officer Kolanovic said that neither he nor any other officer at the scene used profanity towards § 87(2)(b) and § 87(2)(b). In addition, he stated that no officer at the scene threatened to arrest them. Lastly, he said that no officer threatened to contact ACS.

Officers Not Interviewed

§ 87(2)(g)

Police Documents

Roll Call

The Roll Call for 62nd Precinct, dated November 20, 2007, tour 2, demonstrates that Sergeant Zaleski, Officer Hagan, Officer Maldonado, and Officer Kolanovic were working; they were assigned to BAT anti-crime (Encl. 16-16r).

Sprint

The Sprint regarding this incident demonstrates that the BAT team of the 62nd Precinct picked up the job (Encl. 17-17a). The sprint further explains that an anonymous male caller (AMC) said that someone in apartment § 87(2)(b) wanted to shot another person, however, the caller was uncertain if anyone in the apartment was in possession of any weapons. He was also unsure if anyone sustained injuries.

The AMC explained that the people who live in this apartment fought everyday. The officers unfounded the dispute call.

Domestic Incident Report

A Domestic Incident Report was filled out on November 20, 2007, concerning the dispute which occurred between § 87(2)(b) and § 87(2)(b) at § 87(2)(b) in Brooklyn (Encl. 19-19a). The narrative states the following: *"At TPO police responded due to a radio run of dispute with gun. The residence is a drug prone location, police found above persons in the apartment all yelling at each other and § 87(2)(b) § 87(2)(b) was punching the wall. § 87(2)(b) was yelling at police as well as § 87(2)(b) whom have a child in common. Police could not engage in a rational dialogue and were asked by the three people to leave."*

911 CD

The 911 CD recorded two separate phone calls(Encl. 18). In the first call, an anonymous male caller (AMC) stated that in a private four home family house, located at § 87(2)(b) on the second floor, a male and a female (his neighbors) fight everyday. The AMC said that the two argue continuously, screaming and fighting at each other. The male caller refused to leave his name and number.

In the second call, the AMC (same from the first call-same voice) requested that an officer be sent to § 87(2)(b) on the 2nd Floor. He explained that his neighbors were fighting. The AMC then whispered, "They are going to kill somebody." The operator asked, "Are there any weapons...is anyone hurt?" The AMC caller replied, "I don't know. They are fighting everyday." The AMC refused to leave his name and number.

CCRB History/Officer History:

This is § 87(2)(b)'s 2nd complaint with the CCRB. § 87(2)(b)

In his nine-year tenure, Sergeant Zaleski has no prior substantiated allegations. In his 4 year tenure, Officer Hagan has no prior substantiated allegations.

Conclusions and Recommendations

Officer Identification

§ 87(2)(g). In his CCRB interview, Officer Hagan stated that Sergeant Zaleski was the highest ranking officer present during the incident. During his CCRB interview, Sergeant Zaleski also acknowledged his presence and role in the incident. In addition, the roll call confirms that Sergeant Zaleski was working during the time of the incident. § 87(2)(f)

§ 87(2)(g) During the incident, § 87(2)(b) identified Officer Hagan as the subject officer when he looked at his badge. During the incident, § 87(2)(b) and § 87(2)(b) also alleged that it was Officer Hagan who carried out these particular acts. In addition, Officer Hagan acknowledged that he was present at the scene. Lastly, roll call demonstrates that Officer Hagan was working during the incident time.

§ 87(2)(g)

§ 87(2)(g)

Undisputed Facts

Several officers responded to the radio call, stating that an individual was in the possession of a firearm at § 87(2)(b) in Brooklyn. The officers gained access into the home and observed a verbal dispute occurring in the home. § 87(2)(b) and § 87(2)(b) stated that they were not in the possession of any firearms. The officers soon left the scene after filling out a DIR.

Facts in Dispute

§ 87(2)(g)

Assessment of Evidence

In regards to the entrance and search of § 87(2)(b) there is a consensus that the officers entered the apartment; § 87(2)(g)

In regards to the officers entering the home, § 87(2)(b) stated that § 87(2)(b) opened the door and soon informed the officers that they were not allowed to gain access into the home; allegedly, the officers moved § 87(2)(b) aside and entered the home. § 87(2)(b) said that before she could fully respond to the knock on the door, the officers opened the door, which was unlocked, and walked inside the apartment. Officer Maldonado and Sergeant Zaleski claimed that when they first approached the apartment, the officers pushed open the door, which was ajar and entered the premises. Officer Kolanovic and Officer Hagan recounted that the officers knocked on the door, and § 87(2)(b) opened the door, granting them access into the home. § 87(2)(g)

§ 87(2)(g) § 87(2)(b) stated that the officers conducted a thorough search of the home: i.e. rummaging through the draws and closets, searching the kitchen, bathroom, etc. § 87(2)(b) said that officers only briefly entered the two bedrooms and conducted a visual search. Officer Maldonado admitted that he walked into both bedrooms and conducted a visual search. As for Officer Kolanovic and Officer Hagan, they recounted that none of the officers searched any of the rooms in the house, nor did any of the officers walk into the rooms. Lastly, Sergeant Zaleski also claimed that he did not enter any rooms in the home, though is uncertain if any officer at the scene entered the rooms. § 87(2)(g)

Officer Maldonado was the only officer interviewed who said that he did enter the bedrooms. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) and § 87(2)(b) alleged that Officer Hagan and PO2 used profanity towards them, however, all the officers interviewed for this complaint deny this claim. § 87(2)(g)

For instance, both § 87(2)(b) and § 87(2)(b) stated that Officer Hagan told them that if they “didn’t shut the fuck up” he would contact ACS. At other times, § 87(2)(b) and § 87(2)(b) both alleged that an officer used profanity at a particular time during the incident, however, both victims did not provide the same word usage. For instance, both § 87(2)(b) and § 87(2)(b) alleged that before Officer Hagan pushed § 87(2)(b) onto the couch, Officer Hagan cursed at him; § 87(2)(b) said that Officer Hagan told him, “You sit the fuck down” and § 87(2)(b) recalled that Officer Hagan said “Shut the fuck up.” § 87(2)(g)

§ 87(2)(b) alleged that PO2 cursed at him several times when the officers first entered the home, announcing that they were searching for weapons; § 87(2)(b) did not make this claim.

§ 87(2)(g)

Both § 87(2)(b) and § 87(2)(b) alleged that Officer Hagan pushed § 87(2)(b) onto the couch, which caused him to black out for a few seconds. Officer Kolanovic, Officer Maldonado, Officer Hagan and Sergeant Zaleski all claim that they did not carry out this act, and did not see any other officers at the scene carry out this act. § 87(2)(g)

In regards to the threat of force allegation, the officers claimed that none of the officers present at the scene threatened to use force towards § 87(2)(b). Both § 87(2)(b) and § 87(2)(b) claimed that Officer Hagan did make a threatening statement to § 87(2)(b). § 87(2)(g) § 87(2)(b) said that Officer Hagan told § 87(2)(b) that he was going to “slap the shit out of her” and § 87(2)(b) alleged that Officer Hagan told her that he would, “punch her in the face.” § 87(2)(g)

§ 87(2)(b) also alleged that an officer threatened to use force towards him, however § 87(2)(b) did not state this claim during her CCRB interview. § 87(2)(g)

Both § 87(2)(b) and § 87(2)(b) stated that PO2 threatened to place them under arrest. § 87(2)(g) Officer Maldonado, Officer Kolanovic, Sergeant Zaleski, and Officer Hagan denied that they or any other officer at the scene threaten to arrest the civilians, § 87(2)(g)

§ 87(2)(b) and § 87(2)(b) both alleged that Officer Hagan threatened to contact ACS, § 87(2)(g)

Conclusions and Recommendations

Allegation A) Abuse of Authority: Sergeant Christopher Zaleski entered and searched § 87(2)(b)

Officer Kolanovic, Officer Hagan, Officer Maldonado and Sergeant Zaleski all stated that they received a radio call, which relayed the message that at § 87(2)(b) there was an ongoing dispute which involved or may have involved a firearm. Sergeant Zaleski was the only officer who stated that possibly, a firearm might be involved in the dispute. § 87(2)(g) § 87(2)(b) stated that the officers gently moved § 87(2)(b) out of the way and then entered the apartment. § 87(2)(b) said that the officers turned the door knob and entered the apartment. Sgt. Zaleski stated that the front door to the apartment was unlocked and the officers turned the knob and entered under the belief that someone inside the apartment may have been in possession of a firearm. PO Maldonado also said that the front door was open and that the officers entered into the apartment on their own accord. PO Hagan and PO Kolanovic both stated that the front door was closed. Both officers stated that the officers knocked on the door and that a male, identified as § 87(2)(b) allowed the officers to enter the apartment.

§ 87(2)(g)

In this particular incident, the police responded to a 911 call made by an anonymous male caller. In regards to anonymous sources of information, Kamins states, “An anonymous tip, such as a 911 telephone call, furnishing a general description of a suspect or a location...or a report of shots fired, without more, will not constitute reasonable suspicion to forcibly stop an individual. As mentioned above, because of its inherent lack of reliability, such information can only justify a common-law right to inquire.” § 87(2)(g)

§ 87(2)(b) The officers all stated that they heard a verbal argument going on between § 87(2)(b) and § 87(2)(b) as they were near the front door of the apartment. § 87(2)(g)

§ 87(2)(b) In *People v. Mitchell* the police were allowed to make a warrantless entry into a location when they heard loud screams coming from an apartment that they had been directed to the location by a woman on the street saying that there was a “problem” inside the building. § 87(2)(g)

§ 87(2)(b) Additionally, in *People v. Thatcher* the police were advised of an ongoing domestic dispute involving a firearm. The officers went to the location, found the front door ajar and saw signs of a disturbance. The court found the officers’ warrantless entry to be acceptable because the officers’ sole motivation for the entry was to protect life and

property. § 87(2)(g)

Allegation B) Discourtesy: Officer John Hagan spoke obscenely and/or rudely to § 87(2)(b) and § 87(2)(b)

Allegation C) An officer spoke obscenely and/or rudely to § 87(2)(b) and § 87(2)(b) Both § 87(2)(b) and § 87(2)(b) alleged that PO2 and Officer Hagan used discourteous language towards them. § 87(2)(g)

all the officers involved in this case refute this claim, § 87(2)(g)

Allegation D) Officer John Hagan used physical force against § 87(2)(b)

Both § 87(2)(b) and § 87(2)(b) alleged that Officer Hagan pushed § 87(2)(b) onto the couch. § 87(2)(b) further stated that due to the push, he blacked-out § 87(2)(g)

Officer Hagan, Officer Maldonado, Sergeant Zaleski, and Officer Kolanovic all objected that this incident took place § 87(2)(g)

Allegation E) An Officer threatened § 87(2)(b) **with the use of force.**

§ 87(2)(b) stated that an officer threatened to arrest him. § 87(2)(g)

Allegation F) An Officer threatened to arrest § 87(2)(b) **and** § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) both alleged that an officer threatened to arrest them, however, Officer Kolanovic, Officer Hagan, Officer Maldonado, and Sergeant Zaleski all denied that this circumstance took place. § 87(2)(g)

Allegation G) Officer John Hagan threatened § 87(2)(b) **with the use of force.**

Both § 87(2)(b) and § 87(2)(b) alleged that Officer Hagan threatened to use force towards § 87(2)(b) § 87(2)(g)

all the officers involved in this complaint denied that Officer Hagan made this comment, § 87(2)(g)

Allegation H) Officer John Hagan threatened to notify Administration for Children's Services.

§ 87(2)(b) and § 87(2)(b) alleged that Officer Hagan threatened to contact ACS. § 87(2)(g)

§ 87(2)(g) all the officers involved in the complaint denied this claim. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: